

REMARKS/ARGUMENTS

Claims 1-5 and 11-32 are active. Claims 6-10 have been cancelled. Claims 18-20 have been allowed. The claims have been amended for clarity. New claims 31 and 32 depend from allowed claims 18 and 19 and also find support in claim 1. No new matter has been added. Favorable consideration of this amendment and allowance of this case are respectfully requested.

Rejections—35 U.S.C. §112, second paragraph and 35 U.S.C. §101

Claims 11-17 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite on the grounds that they do not “set forth any steps” and under 35 U.S.C. §101 as being non-statutory. This rejection is moot in view of the amendments above.

Rejection—35 U.S.C. §103(a)

Claims 1-5 and 21-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Isono, et al., U.S. Patent No. 5,871,477. Claims 1-5 are product (composition) claims. Claims 21-30 are method of treatment (peritoneal dialysis) claims. The Applicants respectfully traverse this rejection since Isono, et al. is directed to a medical container and does not suggest or provide a reasonable expectation of success for the present invention.

While col. 2, lines 5 *ff.* describe a peritoneal dialysate containing 1 to 8 gr/dl of glucose and various electrolytes, it does disclose a dialysate containing adenosine triphosphate or a salt of adenosine triphosphate. Lines 40-41 of Isono propose adding various ingredients, including nucleic acid bases like adenosine triphosphate, to **organ preserving solutions**. However, there is no suggestion in Isono to add adenosine triphosphate to a dialysate such as that described in col. 2, lines 10-17. Rather, col. 2, lines 35-47 of Isono

specifically refer to modify organ preserving solutions like the glucose-free Eurocollin's solution described in col. 2, lines 26-34 with a variety of proposed additives.

Isono proposes that various ingredients like saccharides, including glucose (col. 2, line 38) as well as a variety of other additives including "nucleic acid bases (adenosine triphosphate, and the like)" (col. 2, lines 40-41; see also col. 18, line 15¹) might be added to an organ preserving solution. However, Isono does not suggest the specific combination of glucose and adenosine triphosphate, nor suggest incorporating 1-4 g/dl of glucose into an organ preserving solution, and provides no suggest at all to incorporate both of these ingredients into a dialysate. Moreover, Isono does not provide a reasonable expectation of success of the superior properties the dialysate of the invention provides by incorporating adenosine triphosphate or a salt thereof into a dialysate. These benefits include a reduction in the injuries caused by conventional dialysis with solutions not including adenosine triphosphate, see the bottom of page 2 of the specification. At best, Isono only suggests adding adenosine triphosphate to an organ preservation solution and not to a dialysis solution containing a high concentration of glucose. Since Isono does not disclose, suggest, or provide a reasonable expectation of success for a dialysate containing adenosine triphosphate or its salts, the Applicants respectfully request that this rejection be withdrawn.

Allowable Subject Matter

The Applicants thank Examiner Henry for indicating the allowability of claims 18-20.


¹ Adenosine triphosphate is mentioned only in these two places in Isono and each time as one of many potential additives for an organ preservation solution. For example, col. 17, lines 37-38, indicates the organ-preserving solution is "composed of Eurocollins' solution as a base" as does col. 2, lines 35-47.

Conclusion

In view of the amendments and remarks above, the Applicants respectfully submit that this application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

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